



Application Serial No.: 10/706,521
Atty. Docket No.: 2C06.1-010
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: CALLAN, Eoin J.P.

Serial No.: 10/706,521

Filed: November 12, 2003

For: "RESPIRATORY MASK"

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) Group Art Unit: 3743
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) Examiner: PATEL, Nihir B.
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RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 28, 2004

Sir:

This is in response to the Restriction Requirement mailed March 29, 2004. This Response is believed to be timely. However, if any extension fee is required, please consider this a request therefor. The Commissioner is authorized to charge any additional fees due or credit any overpayment to Deposit Account 50-1513.

CERTIFICATE OF MAILING (37 C.F.R. § 1.8)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


Bradley K. Groff

4-28-04
Date


Response to Restriction Requirement:

Applicant elects, with traverse, to continue prosecution of Claims 1-11 (Group I). Pursuant to 37 C.F.R. § 1.143, applicant requests reconsideration and withdrawal of the Restriction Requirement for reasons set forth below.

Section 803 of the Manual of Patent Examining Procedure (M.P.E.P.) sets out two criteria for proper requirement of restriction: (1) the inventions must be independent or distinct as claimed; *and* (2) there must be a *serious burden* on the Examiner if restriction is not required. Applicant does not contest that the first criteria, namely that the inventions must be independent or distinct as claimed, is met.

Applicant respectfully submits, however, that the second criteria specified by M.P.E.P. § 803 is not met. Namely, the Examiner would not be seriously burdened by examination of the claims of Groups I and II together. The inventions defined by various claims within Groups I and II contain significant overlap of elements, for example, the inclusion of at least one visible display on a respiratory mask. As such, in order to properly examine the inventions defined by claims in Group II, it will be necessary for the Examiner to search art relevant to claims in Group I as well, and vice versa. Accordingly, there will be no significant additional burden by examination of the claims of Groups I and II together.

Respectfully submitted,



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